

FILED IN OPEN COURT

ON 7/27/2023

Peter A. Moore, Jr., Clerk  
US District Court  
Eastern District of NC

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

WESTERN DIVISION

NO. 5:23-CR-241-BO-RN-1

NO. 5:23-CR-241-BO-RN-2

NO. 5:23-CR-241-BO-RN-3

NO. 5:23-CR-241-BO-RN-4

NO. 5:23-CR-241-BO-RN-5

UNITED STATES OF AMERICA )

v. )

INDICTMENT

CORTNEY HIGHSMITH )

LUIS MARTINEZ )

ROBERTO MARTINEZ )

STEVEN MARTINEZ )

GILBERTO HERNANDEZ )

The Grand Jury charges that:

COUNT ONE

From on or about January 27, 2023, and continuing until on or about February 4, 2023, within the Eastern District of North Carolina and elsewhere, CORTNEY HIGHSMITH, LUIS MARTINEZ and STEVEN MARTINEZ, defendants herein, and others known and unknown to the Grand Jury, did knowingly and unlawfully combine, conspire, agree and confederate with each other to commit offenses against the United States, to wit: in connection with the acquisition of firearms from licensed dealers of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made false and fictitious statements, oral and written, which statements were intended and likely to deceive, as to a fact material to the lawfulness of such

sale of the firearms to the defendants under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that they were the actual transferee or buyer of the firearms indicated on the Form 4473, when in fact as the defendants then knew, they were not the actual transferee or buyer of the firearms, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

### **Object of the Conspiracy**

The objective of the conspiracy was to illegally obtain firearms by knowingly and unlawfully making false and fictitious statements that were intended to deceive federal firearms dealers, when in fact they were not the actual transferee or buyer of the firearms, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

### **Manner and Means of the Conspiracy**

The object of the conspiracy were accomplished by CORTNEY HIGHSMITH and STEVEN MARTINEZ purchasing firearms, completing the required Forms 4473 Firearms Transaction Record (hereinafter Form[s] 4473) certifying that the firearms were not being "acquir[ed]...on behalf of another person," and thereafter transferring the purchased firearms to LUIS MARTINEZ and other persons known and unknown to the Grand Jury in exchange for cash payment.

### **Overt Acts**

In furtherance of the conspiracy and to effect the object of the conspiracy, the defendants and persons known and unknown to the Grand Jury, did commit, among others, the following overt acts:

1. On or about January 27, 2023, STEVEN MARTINEZ, purchased a ROMAR/CUGIR, Model WASR-20, 7.62x39 caliber rifle, from Guns Plus Too, a federal firearms licensee. STEVEN MARTINEZ signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm. STEVEN MARTINEZ thereafter transferred the firearm to LUIS MARTINEZ.
2. On or about January 28, 2023, STEVEN MARTINEZ, purchased a Riley Defense Model RAK-47, 7.62x39 caliber rifle, from Jim's Guns Jobbery, a federal firearms licensee. STEVEN MARTINEZ signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm. STEVEN MARTINEZ thereafter transferred the firearm to LUIS MARTINEZ.
3. On or about January 30, 2023, CORTNEY HIGHSMITH, purchased three Riley Defense RAK47, 7.62x39 caliber rifles from Fuquay Gun and Gold, a federal firearms licensee. CORTNEY HIGHSMITH signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm. CORTNEY HIGHSMITH thereafter transferred the firearm to LUIS MARTINEZ.
4. On or about February 2, 2023, CORTNEY HIGHSMITH, purchased five firearms, a Pinor Arms, Model Sporter, 5.56 caliber rifle; a Century Arms,

Model WASR-10, 7.62x39 caliber rifle; a Zastava, Model ZPAP M70, 7.62x39 caliber rifle; a Century Arms, Model Viska, 7.62x39 caliber rifle, and a ROMAR/CUGIR, Model-10, 7.63x39 caliber rifle from Guns Plus, a federal firearms licensee. CORTNEY HIGHSMITH signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm. CORTNEY HIGHSMITH thereafter transferred the firearm to MARTINEZ.

5. On or about February 4, 2023, CORTNEY HIGHSMITH, purchased three firearms, a Pioneer Arms, Model POL-AK-S-CT-W, 7.62 caliber rifle, a Riley Defense Model RAK47-P, 7.62 caliber rifle, and a Riley Defense RAK47L-SF, 7.62x39 caliber rifle; from Proven Arms and Outfitters, a federal firearms licensee. CORTNEY HIGHSMITH signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm. CORTNEY HIGHSMITH thereafter transferred the firearm to LUIS MARTINEZ and others known and unknow to the Grand Jury.
6. On or about February 4, 2023, CORTNEY HIGHSMITH, purchased two Riley Defense RAK47, 7.62x39 caliber rifles from Jim's Gun Jobbery, a federal firearms licensee. CORTNEY HIGHSMITH signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm. CORTNEY HIGHSMITH thereafter transferred the firearm to LUIS MARTINEZ.
7. On or about February 7, 2023, CORTNEY HIGHSMITH, purchased an FNH USA, Model M249S, 5.56 caliber rifle from Guns Plus, a federal firearms licensee. CORTNEY HIGHSMITH signed a Form 4473 certifying that he was

the "actual transferee/buyer" of the firearm. CORTNEY HIGHSMITH thereafter transferred the firearm to LUIS MARTINEZ and others known and unknow to the Grand Jury.

All in violation of the provisions of Title 18, United States Code, Section 371.

#### COUNT TWO

On or about January 27, 2023, in the Eastern District of North Carolina, the defendant, STEVEN MARTINEZ, in connection with the acquisition of a firearm, from Guns Plus Too, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral and written, to Guns Plus Too, which statement was intended and likely to deceive Guns Plus Too, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

#### COUNT THREE

On or about January 28, 2023, in the Eastern District of North Carolina, the defendant, STEVEN MARTINEZ, in connection with the acquisition of a firearm, from Guns Plus Too, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral

and written, to Jim's Gun Jobbery, which statement was intended and likely to deceive Jim's Gun Jobbery, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

#### COUNT FOUR

On or about January 30, 2023, in the Eastern District of North Carolina, the defendant, CORTNEY HIGHSMITH, in connection with the acquisition of a firearm, from Fuquay Gun and Gold, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral and written, to Fuquay Gun and Gold, which statement was intended and likely to deceive Fuquay Gun and Gold, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

#### COUNT FIVE

On or about February 2, 2023, in the Eastern District of North Carolina, the defendant, CORTNEY HIGHSMITH, in connection with the acquisition of a firearm, from Guns Plus, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral and written, to Guns Plus, which statement was intended and likely to deceive Guns Plus, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

#### COUNT SIX

On or about February 4, 2023, in the Eastern District of North Carolina, the defendant, CORTNEY HIGHSMITH, in connection with the acquisition of a firearm, from Proven Arms and Outfitters, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral and written, to Proven Arms and Outfitters, which statement was intended and likely to deceive Proven Arms and Outfitters, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol,



Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

COUNT SEVEN

On or about February 4, 2023, at a time separate and apart from that alleged in Count Six of the Indictment, in the Eastern District of North Carolina, the defendant, CORTNEY HIGHSMITH, in connection with the acquisition of a firearm, from Jim's Gun Jobbery a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral and written, to Jim's Gun Jobbery, which statement was intended and likely to deceive Jim's Gun Jobbery, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

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### COUNT EIGHT

On or about February 7, 2023, in the Eastern District of North Carolina, the defendant, CORTNEY HIGHSMITH, in connection with the acquisition of a firearm, from Guns Plus a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious statement, oral and written, to Guns Plus, which statement was intended and likely to deceive Guns Plus, as to a fact material to the lawfulness of such sale of the firearm to the defendant under Chapter 44 of Title 18, in that the defendant did execute a Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives Form 4473, Firearms Transaction Record, to the effect that that he was the actual transferee or buyer of the firearm indicated on the Form 4473, when in fact as the defendant then knew, he was not the actual transferee or buyer of the firearm, in violation of Title 18, United States Code, Sections 922(a)(6) and 924(a)(2).

### COUNT NINE

From on or about January 28, 2023, until on or about February 7, 2023, in the Eastern District of North Carolina, the defendants, CORTNEY HIGHSMITH and STEVEN MARTINEZ, did knowingly purchase firearms, in and affecting interstate or foreign commerce, for, on behalf of, or at the request of LUIS MARTINEZ, knowing or having reasonable cause to believe that LUIS MARTINEZ was an alien illegally and unlawfully in the United States, in violation of Title 18, United States Code, Section 932(b)(1).

#### COUNT TEN

Between on or about January 27, 2023 and February 19, 2023, in the Eastern District of North Carolina and elsewhere, the defendants, LUIS MARTINEZ, ROBERTO MARTINEZ, and CORTNEY HIGHSMITH, did knowingly conspire and agree with persons known and unknown to the Grand Jury, to ship, transport, transfer, cause to be transported, or otherwise disposed of one or more firearms to another person, in and affecting interstate and foreign commerce, knowing and having reasonable cause to believe that the use, carrying, and possession of a firearm by the recipient would constitute a felony (as defined in section 932(a)), in violation of Title 18, United States Code, Sections 933(a)(1), (a)(3), and (b).

#### COUNT ELEVEN

On or about February 19, 2023, in the Eastern District of North Carolina and elsewhere, the defendants LUIS MARTINEZ and GILBERTO HERNANDEZ, aiding and abetting each other, did fraudulently and knowingly export and send and attempt to export and send from the United States to Mexico, merchandise, articles and objects contrary to any law or regulation of the United States, that is: firearms, magazines, and ammunition belts, contrary to the laws and regulations of the United States, to wit: Title 50, United States Code, Section 4819; Title 15, Code of Federal Regulations, Part 774; Title 15, Code of Federal Regulations, Part 738; Title 22, Code of Federal Regulations, Parts 120-130, in violation of Title 18, United States Code, Sections 554(a) and 2.

### COUNT TWELVE

Beginning on a date unknown to the Grand Jury, but no later than in or about January 2023 and continuing thereafter up to and including in or about May of 2023, in the Eastern District of North Carolina and elsewhere, the defendants, LUIS MARTINEZ, ROBERTO MARTINEZ, and GILBERTO HERNANDEZ, did knowingly combine, conspire, confederate, agree and have tacit understanding with one another, and other persons known and unknown to the Grand Jury, to commit certain offenses under Title 18, United States Code, Section 1956, that is, to knowingly: transport, transmit, and transfer, and attempt to transport, transmit, and transfer funds and a monetary instrument, that is, United States currency, from a place in Mexico to and through a place inside the United States, with the intent to promote the carrying on of a specified unlawful activity, that is, the felonious exportation of articles and objects contrary to the laws and regulations of the United States, in violation of Title 18, United States Code, Section 1956(a)(2)(A);  
All in violation of Title 18, United States Code, Section 1956(h).

### COUNT THIRTEEN

On or about May 24, 2023, in the Eastern District of North Carolina, the defendant, LUIS MARTINEZ, knowing he was an alien illegally and unlawfully in the United States, knowingly possessed a firearm, and the firearm was in and affecting commerce violation of Title 18, United States Code, Sections 922(g) and 924.

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### FORFEITURE NOTICE

Notice is hereby given that all right, title and interest in the property described herein is subject to forfeiture.

Upon conviction of any violation of the Gun Control Act, the National Firearms Act, or any other offense charged herein that involved or was perpetrated in whole or in part by the use of firearms or ammunition, the defendant shall forfeit to the United States, pursuant to 18 U.S.C. § 924(d) and/or 26 U.S.C. § 5872, as made applicable by 28 U.S.C. § 2461(c), any and all firearms and ammunition that were involved in or used in a knowing or willful commission of the offense, or that were intended to be used in any offense identified in 18 U.S.C. § 924(d)(3), or, pursuant to 18 U.S.C. § 3665, that were found in the possession or under the immediate control of the defendant at the time of arrest.

The forfeitable property includes, but is not limited to, the following:

1. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B37888;
2. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B40025;
3. Pioneer Arms, Model Sporter, 7.62x39 caliber rifle, serial number PAC1180792;
4. ROMARM/CUGIR, Model WASR-10, 7.62x39 caliber rifle, serial number 22A1-93347;
5. Century Arms, Model WASR-10, 7.62x39 caliber rifle, serial number 22A1956683;
6. Century Arms, Model Vska, 7.63x39 caliber rifle, serial number SV7097536;
7. Pioneer Arms, Model Sporter, 7.62x39 caliber rifle, serial number PAC1182325;
8. Zastava, Model ZPAP M70, 7.62x39 caliber rifle, serial number Z70-148326;
9. FN, Model M249S, 5.56 caliber rifle, serial number M249SA05981;

10. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B53416;
11. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B52679;
12. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B51625;
13. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B53093;
14. Riley Defense, Model RAK 47, 7.62x39 caliber rifle, serial number B53031;
15. Riley Defense INC, Model: RAK47. 7.62x39 caliber rifle, serial number: B5261
16. WASR, Model: ROA (model type obliterated), 7.62x39 caliber rifle, serial number: UF-5545 and
17. Molot-Oruzhie LTD Model: Vepr-12 Melot, 12-gauge shotgun, serial number I6VAO8943.

And any and all associated ammunition.

**REDACTED VERSION**

Pursuant to the E-Government Act and the federal rules, the unredacted version of this document has been filed under seal.

7/26/2023  
DATE

MICHAEL F. EASLEY, JR.  
United States Attorney

  
BY: CHAD RHOADES  
Assistant United States Attorney

  
BY: JULIE CHILDRESS  
Assistant United States Attorney